

REMARKS

Claims 1-22, 24 and 25 are in the case. Claims 1 and 24 are amended and claim 23 is canceled. Claims 1, 24 and 25 are the only independent claims.

Applicant's remarks in this amendment are confined to the amendments, the reasons for the amendments and responses to the examiner's responses to the applicant's arguments in applicant's last amendment. Applicant's last amendment included a summary review of the invention and described reasons for allowance. They are not replicated here because they are already in the file, but are still believed to have merit.

A critically important fact is that applicant's invention only has a purpose when a candle is burned in a freestanding state. In other words, it is clear from applicant's description that there is no reason to have applicant's flame resistant sheet bonded to the bottom of the fuel body of the candle if the candle is contained within a container. The reason the invention would be superfluous if the candle is in a container is that the purpose of the flame resistant sheet is to prevent molten wax from flowing through the bottom of the candle onto a support surface and cause damage or danger. If the candle were in a container, including the Henze container, the container would contain such molten wax so applicant's sheet would have no purpose.

The fact a candle CAN be put in a container does mean that Henze teaches the bonding or joining of a flame resistant sheet to the bottom of a candle that is IN a freestanding state, that is unsupported by a container. The language in Pappas which the examiner cites does not say or imply that a candle is still freestanding when it is in a container. A candle in a container is not what the industry considers a freestanding candle. Such a candle becomes a container candle. The fact that a freestanding candle can

be inserted in a container to make it a container candle, does not mean that the combination is still free standing. The cited Pappas language means only that, the fact that it is possible to put a freestanding candle in a container, does not mean it is not a freestanding candle. It means the candle is not disqualified from being a freestanding candle just because it could be placed in a container. The candle is free standing when not supported in a container. But if it is put in a container, the candle is no longer free standing. It is supported in a container.

Applicant has amended claim 1 and added new claim 25 to more particularly point out these distinctions which are critical because they relate to the operation, purpose and function of the invention. The inserted language is intended to exclude from applicant's claims any use of a flame resistant sheet bonded to the bottom of the fuel body which is in a container.

The Henze reference is the only reference that shows anything remotely like a flame resistant sheet bonded to the bottom of a candle fuel body. Henze does not teach anything close to the use of such a flame resistant sheet on a candle that is not in a container. The reason is that Henze does not teach the utility, function or purpose of applicant's sheet bonded to the bottom of the candle. Such a purpose is superfluous or useless in Henze's candle. Therefore, Henze can not be said to teach bonding a flame resistant sheet to the bottom of a candle that is freestanding, uncontained in a container. A prior art worker who studied Henze would see no reason and therefore would have no motivation for doing what applicant has done. Only applicant gives a reason to bond a flame resistant sheet to the bottom of a candle that is not in a container. Only applicant teaches doing that and only applicant provides a reason and motivation for doing that.

Applicant's invention can make an important contribution to candle safety for its intended purpose, protection when a consumer places a candle on a support surface which would not contain molten wax which leaks through the bottom of the candle instead of placing the candle in a container, like Henze's container or any of the other commonly used containers for candles.

With respect to applicant's use of negative limitations, the examiner is referred to MPEP 2173.05(i). The negative limitation is clearly not new matter because a reading of applicant's specification makes it readily apparent that applicant's flame resistant sheet is only useful, and only contemplated for use, in the absence of a container.

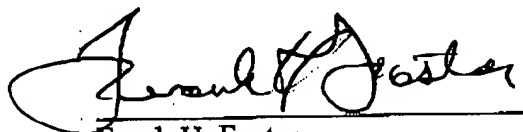
Therefore, the claims as amended in this amendment are allowable for the reasons stated in applicant's last amendment combined with the further limitations inserted in this amendment and the above reasons for them. Therefore, reconsideration and allowance are respectfully requested.

A request for a one month extension of time is enclosed. The Commissioner is authorized to charge Deposit Account No. 13-3393 the amount of \$55.00 for the extension fee.

The Commissioner is authorized to charge Deposit Account No. 13-3393 for any insufficient fees under 37 CFR §§ 1.16 or 1.17, or credit any overpayment of fees.

Respectfully submitted,

10/24/2003
Date of Signature



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Appended: Extension of Time Request
Fee Transmittal

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